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7

FILED

Date 12/12/13 By *Supan Saylor*

8 **BEFORE THE**
9 **STRUCTURAL PEST CONTROL BOARD**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Amended Accusation
13 Against:

Case No. 2014-8

14 **IDEAL FUMIGATION, INC.; JUAN**
15 **FRANCISCO TEJEDA, QUALIFYING**
16 **MANAGER; ERNESTO LARA PEREZ;**
17 **MARTHA PEREZ**
18 **11100 Wright Road**
19 **Lynwood, CA 90262**
20 **Company Registration No. PR 3438**

FIRST AMENDED
ACCUSATION

21 **2459 Chico Avenue**
22 **South El Monte, CA 91733**
23 **Branch Office Registration No. BR 4934**

24 **ERNESTO LARA PEREZ**
25 **11100 Wright Road**
26 **Lynwood, CA 90262**
27 **Operator License No. OPR 11128, Branch 1**
28 **Field Representative License No. FR 43416,**
Branch 3,

and

JUAN FRANCISCO TEJEDA
11100 Wright Road
Lynwood, CA 90262
Operator License No. OPR 10008, Branch 1

Respondents.

1 Complainant alleges:

2 **PARTIES**

3 1. Susan Saylor (Complainant) brings this Amended Accusation solely in her official
4 capacity as the Registrar/Executive Officer of the Structural Pest Control Board, Department of
5 Consumer Affairs.

6 2. On or about April 10, 1999, the Structural Pest Control Board issued Company
7 Registration Number PR 3438 in Branch 1 to Ideal Fumigation, Inc.; Juan Francisco Tejada;
8 Ernesto Lara Perez; Martha Perez (Respondents). On or about July 23, 2013, Company
9 Registration Number PR 3438 was issued a \$700.00 fine levied by the Orange County
10 Agricultural Commissioner for violation of Cal. Code of Regulations, title 3, subdivision 6780.
11 This fine was paid on or about August 28, 2013. The Company Registration was in full force and
12 effect at all times relevant to the charges brought herein.

13 3. On or about April 14, 2003, the Structural Pest Control Board issued Branch Office
14 Registration Number BR 4934 in Branch 1 to Ideal Fumigation, Inc.; Juan Francisco Tejada;
15 Ernesto Lara Perez; Martha Perez (Respondents).

16 4. On or about June 16, 2005, the Structural Pest Control Board issued Operator's
17 License Number OPR 11128, Branch 1, to Ernesto Lara Perez (Respondent Perez). The
18 Operator's License was in full force and effect at all times relevant to the charges brought herein
19 and will expire on June 30, 2016, unless renewed:

- 20 a) On May 19, 2008, Respondent Ernesto Lara Perez' Operator's License No. OPR 11128
21 paid a \$400 fine levied by the Los Angeles County Agricultural Commissioner for
22 violation of section 6600(b) of the California Code of Regulations.
23 b) On November 20, 2008, Respondent Ernesto Lara Perez' Operator's License No. OPR
24 11128 paid a \$250 fine levied by the Los Angeles County Agricultural Commissioner for
25 violation of section 6600(b) of the California Code of Regulations.
26 c) On May 14, 2009, Respondent Ernesto Lara Perez' Operator's License No. OPR 11128
27 paid a \$550 fine levied by the Orange County Agricultural Commissioner for violation of
28 section 12973 of the California Food and Agricultural Code.
d) On November 24, 2009, Respondent Ernesto Lara Perez' Operator's License No. OPR
11128 paid a \$1000 fine levied by the Los Angeles County Agricultural Commissioner for
violation of section 1973(a) of the California Code of Regulations.

- 1 e) On November 10, 2011, Respondent Ernesto Lara Perez' Operator's License No. OPR
2 11128 paid a \$250 fine levied by the Los Angeles County Agricultural Commissioner for
3 violation of section 6600(b) of the California Code of Regulations.
4
5 f) On October 15, 2012, Respondent Ernesto Lara Perez' Operator's License No. OPR
6 11128 paid a \$50.00 fine levied by the Orange County Agricultural Commissioner for
7 violation of section 8505.10 of the Business and Professions Code.
8
9 g) On December 7, 2012, Respondent Ernesto Lara Perez' Operator's License No. OPR
10 11128 became the Vice President of Ideal Fumigation, Inc.
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12 5. On or about July 30, 2008, the Structural Pest Control Board issued Field
13 Representative's License Number FR 43416, Branch 3, to Ernesto Lara Perez (Respondent
14 Perez). On July 26, 2013, Accusation No. 2014-8 was filed against Respondent Ernesto L. Perez'
15 Field Representative's License No. FR 43416.¹ The Field Representative's License was in full
16 force and effect at all times relevant to the charges brought herein and will expire on June 30,
17 2014, unless renewed.
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19 6. On or about April 5, 1999, the Structural Pest Control Board issued Operator's
20 License Number OPR 10008, Branch 1, to Juan Francisco Tejeda (Respondent Tejeda). On or
21 about July 23, 2013, Operator's License Number OPR 10008 was issued a \$700.00 fine levied by
22 the Orange County Agricultural Commissioner for violation of Cal. Code of Regulations, title 3,
23 subdivision 6780. This fine was paid on or about August 28, 2013. The Operator's License was in
24 full force and effect at all times relevant to the charges brought herein and will expire on June 30,
25 2016, unless renewed.
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27 JURISDICTION

28 7. This Amended Accusation is brought before the Structural Pest Control Board
(Board), Department of Consumer Affairs, under the authority of the following laws. All section
references are to the Business and Professions Code unless otherwise indicated.

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¹ The Court may take judicial notice of this matter pursuant to CA Evid. Code §452(h).

STATUTORY PROVISIONS

8. Section 8620 of the Code provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the holder, while a licensee, has committed any acts or omissions constituting cause for disciplinary action or in lieu of a suspension may assess a civil penalty. The statute also provides that a respondent may request that a civil penalty of not more than \$5,000 be assessed in lieu of an actual suspension of 1 to 19 days, or not more than \$10,000 for an actual suspension of 20 to 45 days. Such request must be made at the time of the hearing and must be noted in the proposed decision. The proposed decision shall not provide that a civil penalty shall be imposed in lieu of a suspension.

9. Section 8610, subdivision (c) of the Code states:

"Each registered company shall designate an individual or individuals who hold an operator's license to act as its qualifying manager or managers. The qualifying manager or managers must be licensed in each branch of pest control in which the company engages in business. The designated qualifying manager or managers shall supervise the daily business of the company and shall be available to supervise and assist all employees of the company, in accordance with regulations which the board may establish."

10. Section 8513, subdivision (a) of the Code states:

"(a) The board shall prescribe a form entitled 'Notice to Owner' that shall describe, in nontechnical language and in a clear and coherent manner using words with common and everyday meaning, the pertinent provisions of this state's mechanics lien laws and the rights and responsibilities of an owner of property and a registered pest control company there under. Each company registered under this chapter, prior to entering into a contract with an owner for work for which a company registration is required, shall give a copy of this 'Notice to Owner' to the owner, his or her agent, or the payer."

11. Section 8514 of the Code provides, in pertinent part, that no registered company shall commence work on a contract, or sign, issue, or deliver any documents expressing an opinion or statement relating to the control of household pests, or wood destroying pests or organisms until an inspection has been made. Nothing herein contained shall permit or authorize a registered

1 company to perform, attempt to perform, advertise or hold out to the public or to any person that
2 it is authorized, qualified, or registered to perform, pest control work in a branch, or by a method,
3 for which it is not registered.

4 12. Section 8516 of the Code provides, in pertinent part, that no registered company or
5 licensee shall commence work on a contract, or sign, issue, or deliver any documents expressing
6 an opinion or statement relating to the absence or presence of wood destroying pests or organisms
7 until an inspection has been made by a licensed Branch 3 field representative or operator. The
8 address of each property inspected or upon which work is completed shall be reported on a form
9 prescribed by the board and shall be filed with the board no later than 10 business days after the
10 commencement of an inspection or upon completed work.

11 13. Section 8538 of the Codes states:

12 "(a) A registered structural pest control company shall provide the owner, or owner's agent,
13 and tenant of the premises for which the work is to be done with clear written notice which
14 contains the following statements and information using words with common and everyday
15 meaning:

16 (1) The pest to be controlled.

17 (2) The pesticide or pesticides proposed to be used, and the active ingredient or ingredients.

18 (3) 'State law requires that you be given the following information: CAUTION--
19 PESTICIDES ARE TOXIC CHEMICALS. Structural Pest Control Companies are registered and
20 regulated by the Structural Pest Control Board, and apply pesticides which are registered and
21 approved for use by the California Department of Pesticide Regulation and the United States
22 Environmental Protection Agency. Registration is granted when the state finds that, based on
23 existing scientific evidence, there are no appreciable risks if proper use conditions are followed or
24 that the risks are outweighed by the benefits. The degree of risk depends upon the degree of
25 exposure, so exposure should be minimized.

26 If within 24 hours following application you experience symptoms similar to common
27 seasonal illness comparable to the flu, contact your physician or poison control center (telephone
28

number) and your pest control company immediately.' (This statement shall be modified to include any other symptoms of overexposure which are not typical of influenza.)

'For further information, contact any of the following: Your Pest Control Company (telephone number); for Health Questions--the County Health Department (telephone number); for Application Information--the County Agricultural Commissioner (telephone number) and for Regulatory Information--the Structural Pest Control Board (telephone number and address).'

(4) If a contract for periodic pest control has been executed, the frequency with which the treatment is to be done.

(b) In the case of Branch 1 applications, the notice prescribed by subdivision (a) shall be provided at least 48 hours prior to application unless fumigation follows inspection by less than 48 hours.

In the case of Branch 2 or Branch 3 registered company applications, the notice prescribed by subdivision (a) shall be provided no later than prior to application.

In either case, the notice shall be given to the owner, or owner's agent, and tenant, if there is a tenant, in at least one of the following ways:

(1) First-class mail.

(2) Posting in a conspicuous place on the real property.

(3) Personal delivery.

If the building is commercial or industrial, a notice shall be posted in a conspicuous place, unless the owner or owner's agent objects, in addition to any other notification required by this section.

The notice shall only be required to be provided at the time of the initial treatment if a contract for periodic service has been executed. If the pesticide to be used is changed, another notice shall be required to be provided in the manner previously set forth herein.

(c) Any person or licensee who, or registered company which, violates any provision of this section is guilty of a misdemeanor and is punishable as set forth in Section 8553."

14. Section 8550, subdivision (e) of the Codes provided, in pertinent part, that it is unlawful for any firm, sole proprietorship, partnership, corporation, association, or other

1 organization or combination thereof to engage or offer to engage in the practice of structural pest
2 control, unless registered in accordance with Article 6 (commencing with Section 8610).

3 15. Section 8651 of the Code states:

4 "The performing or soliciting of structural pest control work, the inspecting for structural or
5 household pests, or the applying of any pesticide, chemical, or allied substance for the purpose of
6 eliminating, exterminating, controlling, or preventing structural pests in branches of pest control
7 other than those for which the operator, field representative, or applicator is licensed or the
8 company is registered is a ground for disciplinary action."

9 16. Section 8652 of the Code states:

10 "Failure of a registered company to make and keep all inspection reports, field notes,
11 contracts, documents, notices of work completed, and records, other than financial records, for a
12 period of not less than three years after completion of any work or operation for the control of
13 structural pests or organisms, is a ground for disciplinary action. These records shall be made
14 available to the executive officer of the board or his or her duly authorized representative during
15 business hours."

16 17. Section 8624 of the Code states:

17 "If the board suspends or revokes an operator's license and one or more branch offices are
18 registered under the name of the operator, the suspension or revocation may be applied to each
19 branch office.

20 If the operator is the qualifying manager, a partner, responsible officer, or owner of a
21 registered structural pest control company, the suspension or revocation may be applied to the
22 company registration.

23 The performance by any partnership, corporation, firm, association, or registered company
24 of any act or omission constituting a cause for disciplinary action, likewise constitutes a cause for
25 disciplinary action against any licensee who, at the time the act or omission occurred, was the
26 qualifying manager, a partner, responsible officer, or owner of the partnership, corporation, firm,
27 association, or registered company whether or not he or she had knowledge of, or participated in,
28 the prohibited act or omission."

1 18. Section 8654 of the Code states:

2 “Any individual who has been denied a license ... or who has had his or her license
3 revoked, or whose license is under suspension, or who has failed to renew his or her license while
4 it was under suspension, or who has been a member, officer, director, associate, qualifying
5 manager, or responsible managing employee of any partnership, corporation, firm, or association
6 whose application for a company registration has been denied for any of the reasons specified in
7 Section 8568, or whose company registration has been revoked as a result of disciplinary action,
8 or whose company registration is under suspension, and while acting as such member, officer,
9 director, associate, qualifying manager, or responsible managing employee had knowledge of or
10 participated in any of the prohibited acts for which the license or registration was denied,
11 suspended or revoked, shall be prohibited from serving as an officer, director, associate, partner,
12 qualifying manager, or responsible managing employee of a registered company, and the
13 employment, election or association of such person by a registered company is a ground for
14 disciplinary action.”

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16 **REGULATORY PROVISIONS**

17 19. California Code of Regulations, title 16, section 1937.16 states:

18 “The ‘Notice to Owner’ form to be used by branch 1 and branch 3 registered companies in
19 accordance with Section 8513 of the code shall be that set forth below.

20
21 **NOTICE TO OWNER**

22 Under the California Mechanics Lien Law any structural pest control company which
23 contracts to do work for you, any contractor, subcontractor, laborer, supplier or other person who
24 helps to improve your property, but is not paid for his or her work or supplies, has a right to
25 enforce a claim against your property. This means that after a court hearing, your property could
26 be sold by a court officer and the proceeds of the sale used to satisfy the indebtedness. This can
27 happen even if you have paid your structural pest control company in full if the subcontractor,
28 laborers or suppliers remain unpaid.

1 To preserve their right to file a claim or lien against your property, certain claimants such as
2 subcontractors or material suppliers are required to provide you with a document entitled
3 "Preliminary Notice." Prime contractors and laborers for wages do not have to provide this
4 notice. A Preliminary Notice is not a lien against your property. Its purpose is to notify you of
5 persons who may have a right to file a lien against your property if they are not paid."

6 20. California Code of Regulations, title 16, section 1970.4, subdivision (a) states:

7 "(a) The primary contractor for fumigation shall have in his or her possession and shall
8 provide to any subcontractor for fumigation a form (See Form 43M-48 (Rev. 5/07) at the end of
9 this section) signed by the occupants or designated agent of a structure. The primary contractor
10 for fumigation and the subcontractor for fumigation shall retain a copy of the occupants'
11 fumigation notice for a period of at least three (3) years. In case of multiple-family dwellings, the
12 owner, manager or designated agent of the building may obtain signatures and/or verify the
13 notification of the occupants.

14 The form shall state the name of the pest to be controlled, the pesticide(s)/fumigant(s)
15 proposed to be used, the active ingredient(s) and the health cautionary statement as required under
16 section 8538 of the code. The form shall also state that a lethal gas (poison) will be used in the
17 building on indicated dates and that it is unsafe to return to the building until a certification notice
18 for reentry is posted by the licensed fumigator. The form shall also indicate that the occupant has
19 received the prime contractor's information regarding the procedures for leaving the structure.

20 The properly signed form or a copy thereof shall be in the possession of the licensed
21 fumigator when the fumigant is released. Such form shall be attached to and become a permanent
22 part of the fumigation log upon completion of the fumigation."

23 21. California Code of Regulations, title 16, section 1970 states, in pertinent part, that for
24 the purpose of maintaining proper standards of safety and the establishment of responsibility in
25 handling the dangerous gases used in fumigation and the pesticides used in other pest control
26 operations, a registered company shall compile and retain for a period of at least three years, a log
27 for each fumigation job and for each pesticide control operation in which a pesticide is used by
28 the registered company or the registered company's employee. If the fumigation is to be

1 performed by a fumigation subcontractor, the subcontractor shall complete the fumigation log and
2 forward a copy of the log to the primary contractor within ten business days.

3 4 BACKGROUND FACTS

5 22. On or around July 30, 2012, Respondents fumigated a residential property located at
6 1103 N. Teakwood Avenue, Rialto, CA (Teakwood Property) as the prime contractor.

7 23. Respondents, a Branch 1 company, treated the Teakwood Property for "dry wood
8 termites" using Vikane, a gas fumigant.

9 24. Prior to performing the fumigation for the Teakwood Property, Respondents failed to
10 obtain a termite inspection report.

11 25. Respondents subsequently failed to provide a termite inspection report or any
12 pertinent documentation relating to the contract, when requested by the Board.

13 26. On or around August 4, 2012, Respondents fumigated a residential property located at
14 1025 Whistle Stop Drive, Colton, CA (Whistle Stop Property) as the prime contractor.

15 27. Respondents, a Branch 1 company, treated the Whistle Stop Property for "dry wood
16 termites" using Vikane, a gas fumigant.

17 28. Prior to performing the fumigation for the Whistle Stop Property, Respondents failed
18 to obtain a termite inspection report.

19 29. Respondents subsequently failed to provide a termite inspection report or any
20 pertinent documentation relating to the contract, when requested by the Board.

21 30. On or around September 11, 2012, a Board Specialist performed an unannounced
22 inspection of Respondents' office and requested all subcontractor agreements, fumigation logs
23 where Respondents were identified as a prime contractor, occupant fumigation notices, pesticide
24 disclosures, employee and business licenses, certifications and billing with any mechanics' lien
25 notices to consumers, to be produced by September 20, 2012.

26 31. On or around September 20, 2012, the Board Specialist interviewed Respondents.
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1 32. During the interview, Respondents admitted that Ideal Fumigation, Inc. "regularly
2 fumigates [termite] jobs without a prime contractor for family, friends, and people that cannot
3 afford to pay for a termite inspection."

4 33. Respondents admitted they did not possess documentation for at least nineteen (19)
5 properties identified on Respondents' daily printout schedule.

6 34. Respondents admitted they did not possess documentation for eighty-five (85)
7 completed jobs from identifiable daily job schedules.

8 35. Respondents produced fifteen (15) fumigation logs which identified Respondents as
9 the prime contractor but produced no additional documentation for any of the jobs.

10 36. Respondents produced four (4) fumigation logs where there was a previous termite
11 inspection report performed by a Branch 3 registered company, however Respondent failed to use
12 those reports prior to commencing fumigation.

13 37. Respondent produced twenty-two (22) fumigation logs with occupant's notices which
14 identified Respondents as the prime contractor, but produced no additional documentation for any
15 of the jobs.

16 38. On or around June 21, 2013 Respondents fumigated Tacos El Tejado, a food truck
17 using a CB 580 fogger with pyrethrin, which required a Branch 2 registration.

18
19 **FIRST CAUSE FOR DISCIPLINE**

20 (Improperly Advertising for Unregistered Pest Control Services)

21 39. Respondents are subject to disciplinary action under Code sections 8620 and 8514 in
22 that Respondents attempted to perform, advertised and held themselves out to the public that
23 Respondents were authorized, qualified, or registered to perform pest control work in a branch for
24 which Respondents were not registered. Complainant incorporates by reference paragraphs 22 --
25 38 above, as if fully set forth herein.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 (Performing Unlicensed/Unregistered Pest Control Services)

3 44. Respondents are subject to disciplinary action under Code sections 8620, 8550 and
4 8651 in that Respondents performed or solicited pest control services in branches of pest control
5 other than those for which the Respondents are licensed or the company is registered.
6 Complainant incorporates by reference paragraphs 22 – 38 above, as if fully set forth herein.
7

8 **SIXTH CAUSE FOR DISCIPLINE**

9 (Failure to Maintain Records)

10 45. Respondents are subject to disciplinary action under Code sections 8620 and 8652 in
11 that Respondents failed to maintain records. Complainant incorporates by reference paragraphs
12 33 – 37 above, as if fully set forth herein.
13

14 **DISCIPLINARY CONSIDERATIONS**

15 46. To determine the degree of discipline, if any, to be imposed, Complainant
16 incorporates herein those allegations pertaining to those fines imposed on Respondents as alleged
17 above. Specifically the following:

18 JUAN FRANCISCO TEJADA/IDEAL FUMIGATION, INC.

19 47. On March 6, 2001, Company Registration Certificate No. PR 3438 paid a \$50.00 fine
20 levied by the Los Angeles County Agricultural Commissioner for violation of Bus. & Prof. Code
21 section 8505.5[inadequate notice of fumigation].

22 48. On May 16, 2001, Operator's License No. OPR 10008 paid a fine of \$50.00 levied by
23 the Orange County Agricultural Commissioner for violation of Cal. Code of Regs., title 16,
24 section 1974, subdivision (a)[inadequate fumigation warning signs].

25 49. On March 13, 2002, Operator's License No. OPR 10008 paid a fine of \$200 levied by
26 the Orange County Agricultural Commissioner for violation of Cal. Food and Ag. Code section
27 12973 [pesticide use in conflict with label].
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1 50. On March 19, 2002, Company Registration Certificate No. PR 3438 paid a \$250 fine
2 levied by the Los Angeles County Agricultural Commissioner for violation of Bus. & Prof. Code
3 section 8505.10 [failure to comply with requirements regarding color and content of warning
4 signs].

5 51. On April 9, 2002, Operator's License No. OPR 10008 paid a fine of \$50.00 levied by
6 the Orange County Agricultural Commissioner for violation of Bus. & Prof. Code section
7 8505.10 [failure to comply with requirements regarding color and content of warning signs].

8 52. On July 17, 2002, Company Registration Certificate No. PR 3438 paid a \$400 fine
9 levied by the Los Angeles County Agricultural Commissioner for violation of Cal. Code of Regs.,
10 title 3, section 6780 [failure to follow general fumigation safe-use requirements].

11 53. On September 9, 2002, Operator's License No. OPR 10008 paid a fine of \$400 levied
12 by the Los Angeles County Agricultural Commissioner for violation of Cal. Code of Regs., title
13 3, section 6600, subdivision (b) [failure to perform all pest control in a careful and effective
14 manner].

15 54. On October 15, 2002, Operator's License No. OPR 10008 paid a fine of \$200 levied
16 by the Orange County Agricultural Commissioner for violation of Cal. Food and Ag. Code
17 section 12973 [pesticide use in conflict with label].

18 55. On November 18, 2002, Company Registration Certificate No. PR 3438 paid a
19 \$50.00 fine levied by the Los Angeles County Agricultural Commissioner for violation of Cal.
20 Code of Regs., title 3, section 6630 [failure to properly identify equipment].

21 56. On January 16, 2003, Company Registration Certificate No. PR 3438 paid a \$300 fine
22 levied by the Orange County Agricultural Commissioner for violation of Cal. Code of Regs., title
23 3, section 6702, subdivision (b) [failure to utilize protective equipment].

24 57. On April 22, 2003, Company Registration Certificate No. PR 3438 paid a \$400 fine
25 levied by the Los Angeles County Agricultural Commissioner for violation of Bus. & Prof. Code
26 section 8505.15 [improper/inadequate use of masks].
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1 58. On March 23, 2004, Company Registration Certificate No. PR 3438 paid a \$400 fine
2 levied by the Los Angeles County Agricultural Commissioner for violation of Cal. Code of Regs.,
3 title 3, section 6780, subdivision (c)[failure to follow general fumigation safe-use requirements].

4 59. On April 27, 2004, Company Registration Certificate No. PR 3438 paid a \$400 fine
5 levied by the Los Angeles County Agricultural Commissioner for violation of Cal. Code of Regs.,
6 title 3, section 6780, subdivision (c)[failure to follow general fumigation safe-use requirements].

7 60. On June 30, 2004, Company Registration Certificate No. PR 3438 paid a \$50.00 fine
8 levied by the Los Angeles County Agricultural Commissioner for violation of Cal. Food and Ag.
9 Code section 12973 [pesticide use in conflict with label].

10 61. On May 18, 2005, Company Registration Certificate No. PR 3438 paid a \$50.00 fine
11 levied by the Los Angeles County Agricultural Commissioner for violation of Cal. Code of Regs.,
12 title 3, section 6738, subdivision (h)(3)[improper substitution of personal protective clothing].

13 62. On May 31, 2005, Company Registration Certificate No. PR 3438 paid a \$150 fine
14 levied by the Los Angeles County Agricultural Commissioner for violation of Cal. Code of Regs.,
15 title 3, section 1970, subdivision (a)[failure to maintain a fumigation log].

16 63. On May 31, 2005, Company Registration Certificate No. PR 3438 paid a \$50.00 fine
17 levied by the Los Angeles County Agricultural Commissioner for violation of Bus. & Prof. Code
18 section 8505.10 [failure to comply with requirements regarding color and content of warning
19 signs].

20 64. On December 5, 2005, Company Registration Certificate No. PR 3438 paid a \$400
21 fine levied by the Los Angeles County Agricultural Commissioner for violation of Cal. Code of
22 Regs., title 3, section 6780, subdivisions (b) – (c)[failure to follow general fumigation safe-use
23 requirements].

24 65. On December 13, 2005, Operator's License No. OPR 10008 paid a fine of \$950
25 levied by the Los Angeles County Agricultural Commissioner for violation of Cal. Food and Ag.
26 Code section 12973 [pesticide use in conflict with label], Cal. Code of Regs., title 3, subdivision
27 6600(b) [failure to perform all pest control in a careful and effective manner] and Cal. Code of
28 Regs., title 3, section 6702, subdivision (c)[failure to utilize protective equipment].

1 66. On September 25, 2006, Company Registration Certificate No. PR 3438 paid a \$300
2 fine levied by the Los Angeles County Agricultural Commissioner for violation of Cal. Code of
3 Regs., title 3, section 6780, subdivisions (b) – (c)[failure to follow general fumigation safe-use
4 requirements].

5 67. On March 29, 2007, Company Registration Certificate No. PR 3438 paid a \$50.00
6 fine levied by the Los Angeles County Agricultural Commissioner for violation of Cal. Code of
7 Regs., title 3, section 6738, subdivision (h)(3)[improper substitution of personal protective
8 clothing].

9 68. On March 29, 2007, Company Registration Certificate No. PR 3438 paid a \$50.00
10 fine levied by the Orange County Agricultural Commissioner for violation of Cal. Code of Regs.,
11 title 3, section 6726, subdivision (b)[failure to post notice of emergency medical facilities].

12 69. On November 14, 2007, Operator's License No. OPR 10008 paid a fine of \$355
13 levied by the Orange County Agricultural Commissioner for violation of Cal. Food and Ag. Code
14 section 12973 [pesticide use in conflict with label].

15 70. On May 19, 2008, Company Registration Certificate No. PR 3438 paid a \$400.00 fine
16 levied by the Los Angeles County Agricultural Commissioner for violation of Cal. Code of Regs.,
17 title 3, section 6780, subdivisions (b) – (c)[failure to follow general fumigation safe-use
18 requirements].

19 71. On November 20, 2008, Company Registration Certificate No. PR 3438 paid a
20 \$250.00 fine levied by the Los Angeles County Agricultural Commissioner for violation of Cal.
21 Code of Regs., title 3, section 6780, subdivisions (b) – (c)[failure to follow general fumigation
22 safe-use requirements].

23 72. On December 2, 2008, Company Registration Certificate No. PR 3438 paid a \$250.00
24 fine levied by the Los Angeles County Agricultural Commissioner for violation of Cal. Code of
25 Regs., title 3, section 6724, subdivisions (d)[failure to provide proper handler training].

26 73. On February 24, 2009, Company Registration Certificate No. PR 3438 paid a \$500.00
27 fine levied by the Los Angeles County Agricultural Commissioner for violation of Cal. Food and
28

1 Ag. Code section 12973 [pesticide use in conflict with label] and Cal. Code of Regs., title 3,
2 section 1970, subdivision (a)[failure to maintain a fumigation log].

3 74. On April 27, 2009, Company Registration Certificate No. PR 3438 paid a \$250.00
4 fine levied by the Los Angeles County Agricultural Commissioner for violation of Cal. Food and
5 Ag. Code section 12973 [pesticide use in conflict with label].

6 75. On April 28, 2009, Company Registration Certificate No. PR 3438 paid a \$150.00
7 fine levied by the Los Angeles County Agricultural Commissioner for violation of Bus. & Prof.
8 Code section 8505.5[inadequate notice of fumigation].

9 76. On April 30, 2009, Company Registration Certificate No. PR 3438 paid a \$100 fine
10 levied by the San Bernardino County Agricultural Commissioner for violation of Cal. Food and
11 Ag. Code section 15204(a)[failure to register prior to operating a structural pest control business].

12 77. On June 11, 2009, Company Registration Certificate No. PR 3438 paid a \$50.00 fine
13 levied by the Los Angeles County Agricultural Commissioner for violation of Bus. & Prof. Code
14 section 8505.5[inadequate notice of fumigation].

15 78. On June 22, 2009, Company Registration Certificate No. PR 3438 paid a \$50.00 fine
16 levied by the Riverside County Agricultural Commissioner for violation of Bus. & Prof. Code
17 section 8505.17(c)[failure to submit a monthly report to the county].

18 79. On September 1, 2009, Company Registration Certificate No. PR 3438 paid a
19 \$800.00 fine levied by the Los Angeles County Agricultural Commissioner for violation of Cal.
20 Code of Regs., title 3, section 6780, subdivisions (b) – (c)[failure to follow general fumigation
21 safe-use requirements].

22 80. On July 9, 2010, Company Registration Certificate No. PR 3438 paid a \$250 fine
23 levied by the Los Angeles County Agricultural Commissioner for violation of Cal. Code of Regs.,
24 title 3, section 6616, subdivision (a)[failure to obtain consent to discharge pesticide].

25 81. On November 9, 2010, Company Registration Certificate No. PR 3438 paid a \$350
26 fine levied by the Los Angeles County Agricultural Commissioner for violation of Cal. Food and
27 Ag. Code section 15204.5(d)(3)[failure to provide the commissioner with proper notice of the
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1 pesticide to be applied] and section Bus. & Prof. Code section 8505.10[failure to comply with
2 requirements regarding color and content of warning signs].

3 82. On April 25, 2011, Company Registration Certificate No. PR 3438 paid a \$500 fine
4 levied by the Los Angeles County Agricultural Commissioner for violation of Cal. Food and Ag.
5 Code section 12973 [pesticide use in conflict with label].

6 83. On August 19, 2011, Company Registration Certificate No. PR 3438 paid a \$500 fine
7 levied by the Los Angeles County Agricultural Commissioner for violation of Cal. Code of Regs.,
8 title 3, section 6780, subdivisions (b) – (c)[failure to follow general fumigation safe-use
9 requirements].

10 84. On September 13, 2011, Company Registration Certificate No. PR 3438 paid a \$700
11 fine levied by the Los Angeles County Agricultural Commissioner for violation of Cal. Food and
12 Ag. Code section 15204.5(d)[failure to provide the commissioner with proper notice of the
13 fumigation].

14 85. On November 10, 2011, Company Registration Certificate No. PR 3438 paid a \$700
15 fine levied by the Los Angeles County Agricultural Commissioner for violation of Cal. Code of
16 Regs., title 3, section 6780, subdivisions (b) – (c)[failure to follow general fumigation safe-use
17 requirements].

18 86. On March 22, 2012, Company Registration Certificate No. PR 3438 paid a \$100 fine
19 levied by the Orange County Agricultural Commissioner for violation of Bus. & Prof. Code
20 section 8505.10[failure to comply with requirements regarding color and content of warning
21 signs].

22 87. On March 22, 2012, Company Registration Certificate No. PR 3438 paid a \$250 fine
23 levied by the Los Angeles County Agricultural Commissioner for violation of Bus. & Prof. Code
24 section 8505.17(c)[failure to submit a monthly report to the county] and 8698.1[failure to pay
25 structural fumigation treatment fees].

26 88. On March 22, 2012, Company Registration Certificate No. PR 3438 paid a \$250 fine
27 levied by the Los Angeles County Agricultural Commissioner for violation of Cal. Code of Regs.,
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1 title 3, section 6780, subdivisions (b) – (c)[failure to follow general fumigation safe-use
2 requirements].

3 89. On March 22, 2012, Company Registration Certificate No. PR 3438 paid a \$250 fine
4 levied by the Los Angeles County Agricultural Commissioner for violation of Cal. Code of Regs.,
5 title 3, section 6600, subdivisions (a)[failure to use safe/good repair equipment].

6 90. On September 7, 2012, Company Registration Certificate No. PR 3438 paid a \$250
7 fine levied by the Orange County Agricultural Commissioner for violation of Cal. Code of Regs.,
8 title 3, section 6780 [failure to follow general fumigation safe-use requirements].

9 91. On August 28, 2013, Company Registration Certificate No. PR 3438 paid a \$700 fine
10 levied by the Orange County Agricultural Commissioner for violation of Cal. Code of Regs., title
11 3, section 6780 [failure to follow general fumigation safe-use requirements].

12 92. On October 16, 2013, Company Registration Certificate No. PR 3438 paid a \$250
13 fine levied by the Los Angeles County Agricultural Commissioner for violation of Cal. Code of
14 Regs., title 3, section 6780, subdivisions (b) – (c)[failure to follow general fumigation safe-use
15 requirements].

16 93. On August 28, 2013, Operator's License No. OPR 10008 paid a fine of \$700 levied
17 by the Orange County Agricultural Commissioner for violation of Cal. Code of Regs., title 3,
18 section 6780[failure to follow general fumigation safe-use requirements].

19 94. On October 16, 2013, Operator's License No. OPR 10008 paid a fine of \$250 levied
20 by the Los Angeles County Agricultural Commissioner for violation of Cal. Code of Regs., title
21 3, section 6780, subdivisions (b) – (c)[failure to follow general fumigation safe-use
22 requirements].

23 95. To determine the degree of discipline, if any, to be imposed against Respondent Juan
24 Francisco Tejada, Complainant incorporates those allegations in Accusation No. 2014-8 against
25 Respondent Juan Francisco Tejada's Operator's License No. OPR 10008 and Company
26 Registration Certificate No. PR 3438 and any final determination made in that matter.

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ERNESTO LARA PEREZ

96. On May 19, 2008, Respondent Ernesto Lara Perez's Operator's License No. OPR 11128 paid a \$400 fine levied by the Los Angeles County Agricultural Commissioner for violation of Cal. Code of Regs., title 3, section 6600, subdivision (b)[failure to perform all pest control in a careful and effective manner].

97. On November 20, 2008, Respondent Ernesto Lara Perez's Operator's License No. OPR 11128 paid a \$250 fine levied by the Los Angeles County Agricultural Commissioner for violation of Cal. Code of Regs., title 3, section 6600, subdivision (b) [failure to perform all pest control in a careful and effective manner].

98. On May 14, 2009, Respondent Ernesto Lara Perez's Operator's License No. OPR 11128 paid a \$550 fine levied by the Orange County Agricultural Commissioner for violation of Cal. Food and Ag. Code section 12973 [pesticide use in conflict with label].

99. On November 24, 2009, Respondent Ernesto Lara Perez's Operator's License No. OPR 11128 paid a \$1000 fine levied by the Los Angeles County Agricultural Commissioner for violation of section Cal. Code of Regs., title 16, section 1973, subdivision (a) [failure to perform proper testing after aeration using testing equipment for clearing the structure as required by the manufacturer's label instructions and all applicable laws and regulations].

100. On November 10, 2011, Respondent Ernesto Lara Perez's Operator's License No. OPR 11128 paid a \$250 fine levied by the Los Angeles County Agricultural Commissioner for violation of Cal. Code of Regs., title 3, section 6600, subdivision (b) [failure to perform all pest control in a careful and effective manner].

101. On October 15, 2012, Respondent Ernesto Lara Perez's Operator's License No. OPR 11128 paid a \$50.00 fine levied by the Orange County Agricultural Commissioner for violation of Bus. & Prof. Code section 8505.10 [failure to comply with requirements regarding color and content of warning signs].

102. On October 16, 2013, Respondent Ernesto Lara Perez's Operator's License No. OPR 11128 paid a \$250 fine levied by the Los Angeles County Agricultural Commissioner for

1 violation of Cal. Code of Regs., title 3, section 6600, subdivision (b)[failure to perform all pest
2 control in a careful and effective manner].

3 103. To determine the degree of discipline, if any, to be imposed against Respondent
4 Ernesto Lara Perez, Complainant incorporates those allegations in Accusation No. 2014-8 against
5 Respondent Ernesto Lara Perez' Operator's License No. OPR 11128 and his Field
6 Representative's License No. FR 43416, and any final determination made in that matter.

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8 **PRAYER**

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Structural Pest Control Board issue a decision:

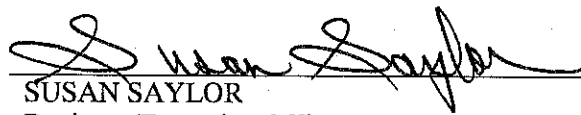
- 11 1. Revoking or suspending Company Registration Number PR 3438, issued to Ideal
12 Fumigation, Inc.; Juan Francisco Tejada; Ernesto Lara Perez; Martha Perez
- 13 2. Revoking or suspending Branch Office Registration Number BR 4934, issued to Ideal
14 Fumigation, Inc.; Juan Francisco Tejada; Ernesto Lara Perez; Martha Perez;
- 15 3. Revoking or suspending Operator License Number OPR 11128, Branch 1, issued to
16 Ernesto Lara Perez;
- 17 4. Revoking or suspending Field Representative License Number FR 43416, Branch 3,
18 issued to Ernesto Lara Perez;
- 19 5. Revoking or suspending Operator License Number OPR 10008, Branch 1, issued to
20 Juan Francisco Tejada;
- 21 6. Ordering Ideal Fumigation, Inc., Ernesto Lara Perez and Juan Francisco Tejada to pay
22 the Structural Pest Control Board the reasonable costs of the investigation and enforcement of this
23 case, pursuant to Business and Professions Code section 125.3;
- 24 7. Prohibiting Ernesto Lara Perez, Juan Francisco Tejada and Martha Perez from serving
25 as an officer, director, associate, partner, qualifying manager or responsible managing employee
26 of any registered company during the period that discipline is imposed on Company Registration
27 Number PR 3438, issued to Ideal Fumigation, Inc.;

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8. Taking such other and further action as deemed necessary and proper.

DATED: 12/12/13



SUSAN SAYLOR
Registrar/Executive Officer
Structural Pest Control Board
Department of Consumer Affairs
State of California
Complainant

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